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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,797	04/18/2002	Eros Pedroni	635.40829 X00	9253
28204	7590	01/29/2004	EXAMINER	
SIEMENS SCHWEIZ I-44, INTELLECTUAL PROPERTY ALBISRIEDERSTRASSE 245 ZURICH, CH-8047 SWITZERLAND			GILBERT, SAMUEL G	
		ART UNIT	PAPER NUMBER	
		3736	<i>16</i>	
DATE MAILED: 01/29/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/018,797	PEDRONI, EROS
Examiner	Art Unit	
Samuel G Gilbert	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 December 2003.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 15-28 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 23 and 24 is/are allowed.
- 6) Claim(s) 15, 17-22 and 25-28 is/are rejected.
- 7) Claim(s) 16 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 15, 17-22 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cole et al(4,870,287) in view of Nonaka et al(6,094,760) and Blosser et al. (4,507,616).

Cole et al teaches a proton beam therapy system having the proton beam guiding structure, immobile floor, and a rotatable patient gantry, however the details of the patient gantry have not been set forth. Nonaka et al teaches a bed system for proton therapy which sets forth the particulars of the patient table as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the bed system as taught by Nonaka et al with the therapy device set forth by Cole et al to provide the advantage of placing the patient in more positions to provide therapy thereby protecting healthy tissue while focusing the beam on the desired tissue, as is taught by Nonaka et al. Blosser et al. teaches a beam source which is rotatable through only 180 degrees.

Coles also set forth a plurality of treatment stations where the beams are in a fixed position. Blosser et al teaches using a rotatable beam source. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a

rotatable beam guides as taught by Blosser et al in place of the fixed station of Cole et al. to allow for space savings and to allow one station to be used for all types of therapy. Since the rotation of Blosser et al is limited the movable floor of the gantry system of Nonaka et al would not be needed and therefore it would have been obvious to eliminate the movable floor.

Response to Arguments

Since the rotation of Blosser et al is limited the movable floor of the gantry system of Nonaka et al would not be needed and therefore it would have been obvious to eliminate the movable floor of the Nonaka et al gantry system.

Allowable Subject Matter

Claims 23 and 24 are allowed.

Claim 16 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patent 6,635,882 teaches a related gantry system with a later filing date.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G Gilbert whose telephone number is 703-308-3553. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 703-308-3130. The fax phone number for the organization where this application or proceeding is assigned is 703-308-0758.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



Samuel G. Gilbert
Primary Examiner
Art Unit 3736

sgg